

The Ontario Weekly Notes

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APPELLATE DIVISION.

SECOND DIVISIONAL COURT.

DECEMBER 4TH, 1916.

*RE WEST NISSOURI CONTINUATION SCHOOL.

Schools—Continuation School—Vacancies in Board—Duty of Township Council to Fill — Mandamus — Necessity for Demand and Refusal — Ineffective Technical Objection — Continuation Schools Act, R.S.O. 1914 ch. 267—Municipal Act, R.S.O. 1914 ch. 192, secs. 193, 215, 242—Costs.

Appeal by the Council of the Township of West Nissouri from the order of SUTHERLAND, J., in Chambers, ante 33, directing the appellants to fill the vacancies in the West Nissouri School Board by the election of new trustees, and, in default, for the issue of a mandamus.

The appeal was heard by MEREDITH, C.J.C.P., RIDDELL, KELLY, and MASTEN, JJ.

Sir George C. Gibbons, K.C., for the appellants.

W. R. Meredith, for Bryan and others, the applicants for the mandamus.

MEREDITH, C.J.C.P., read a judgment in which he said that the real appellants were the members of the township council; and the appeal was based upon the sole ground that no demand, such as the practice of the Court required, had been made upon the appellants before the application for the order in appeal was made.

Under the Continuation Schools Act, R.S.O. 1914 ch. 267, it was, the plain statute-imposed duty of the appellants to appoint three trustees of the school.

*This case and all others so marked to be reported in the Ontario Law Reports.